

Appl. S.N. 10/822,234  
Amdt. Dated 01/05/06  
Reply to Office Action of 10/05/2005

136275-1

#### REMARKS/ARGUMENTS

This amendment is responsive to the Office Action mailed 10/05/2005 wherein claims 1, 4-10 and 15-18 were rejected under 35 USC §103 (a) as being unpatentable over Kutzik et al. (US 6,108,685) in view of Ichikawa (US 5,153,560); and claims 2-3, 11-14 and 19-28 were rejected under USC §103(a) as being unpatentable over Kutzik et al. in view of Ichikawa, and further in view of Ellis et al. (5,045,839). In this amendment, no new matter has been added.

Claims 1-28 remain pending in this application. Reconsideration in light of the following remarks is respectfully requested.

Applicants respectfully traverse the rejection of claims 1, 4-10 and 15-18 under 35 USC 103(a) over Kutzik in view of Ichikawa. In order to establish a *prima facie* case of obviousness, there must be some teaching, suggestion or motivation to combine or modify the applied references. Applicants interpret the Office Action as stating the proposed modification is to combine the monitoring system of Kutzik with the signal detection techniques of Ichikawa. Applicants respectfully submit that the references do not suggest such a modification and that obviousness cannot be established merely because two references can be combined. It is well-established that there must be some suggestion in the references to combine or modify in order to establish a *prima facie* case of obviousness. Further, it is impermissible to use Applicants recited invention as a guide or in hindsight to propose a combination of two references.

Applicants' recited invention, particularly as claimed in independent claims 1 and 15 each recite at least one motion sensor to detect a first activity and transmit a signal indicative of the first activity, at least one exterior door sensor to detect motion of an exterior door and to transmit a signal indicative of the motion, and a monitoring center in communication with both sensors and being adapted to determine whether a resident is inactive within the home or away based upon the timing of the first signal relative to the second signal. Nowhere do the Kutzik and Ichikawa references teach or suggest such a combination of signals and monitoring of the signals, and furthermore nowhere do the Kutzik and Ichikawa references teach or suggest the problems solved by Applicants' recited invention, e.g. determination via a monitoring center of whether a resident is inactive or away based on activity signals relative to one another, as particularly claimed in Applicants' claims 1 and 15, therefore providing no suggestion or motivation to combine the references. Kutzik merely discloses a system for monitoring/reporting on daily living activity of a resident including a motion sensor 304 to detect movement or an exterior door sensor 308 to detect motion/use of exterior door. Nowhere does the Kutzik reference teach or disclose monitoring timing of the signal from the motion sensor relative to the signal corresponding to the

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door sensor as the Office Action inaccurately states. By contrast, there is no comparison of signals to determine any status of the resident. Instead, the sensor signals are monitored separately and Kutzik's monitoring center 110 merely reports activity determined by each sensor (see for example col. 7, lines 5-9 and 45-54). The Ichikawa reference does not overcome the Kutzik reference nor does the Kutzik or Ichikawa references teach or suggest the desirability to monitor first and second signals relative to one another to determine an inactive or away state. Instead, the Ichikawa reference teaches a detection technique for detecting the presence of a person inside a room using infrared motion detector to detect movement of a person and an air pressure sensor to detect opening/closing of a door. The Ichikawa reference does not teach, suggest or disclose a monitoring center adapted to determine whether a resident is inactive or away based on the timing of a first signal relative to a second signal. Further, absent using Applicants' claims as a guide, there is no suggestion in either Kutzik or Ichikawa to modify or combine the references. As such, Applicants respectfully submit that there is no *prima facie* basis for combining Kutzik and Ichikawa and that claims 1 and 15, and claims 4-10 and 16-18 depending thereon, are allowable over these references.

Applicants respectfully traverse the rejection of claims 2-3, 11-14 and 19-28 under 35 USC 103(a) over Kutzik in view of Ichikawa in view of Ellis. Following similar reasoning as with Kutzik and Ichikawa references presented above, Applicants respectfully submit that there is no *prima facie* basis for combining Kutzik and Ichikawa and further combining Ellis. Independent claims 1, 11, 19 and 26 each recite at least one motion sensor to detect a first activity and transmit a signal indicative of the first activity, at least one exterior sensor to detect motion of an exterior door and transmit a signal indicative of the motion, and a monitoring center (claims 1, 11 and 19) to determine inactive or away state of resident based upon timing of first signal relative to second signal or alternatively (claim 26) comparing signals (including a third signal as in claim 26). As discussed in greater detail above, nowhere do the Kutzik or Ichikawa references teach or suggest such a combination of signals and monitoring of the signals, and furthermore nowhere do the Kutzik and Ichikawa references teach or suggest the problems solved by Applicants' recited invention, e.g. determination via a monitoring center of whether a resident is inactive or away based on activity signals relative to one another. The Ellis reference does not overcome the deficiencies of the Kutzik and Ichikawa references. The Ellis reference merely discloses a personnel monitoring device to track inactivity and initiates an alarm after a pre-selected time period. Nowhere does the Ellis reference teach monitoring a first and second signal relative to one another to determine an inactive or away state as particularly recited in Applicants' claims 11, 19 and 26. Further, there is no suggestion or motivation taught by the Kutzik, Ichikawa or Ellis references to make the combination or modification proposed in the Office Action. As such, Applicants respectfully submit that there is no *prima facie* basis for combining Kutzik, Ichikawa

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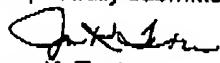
and Ellis and that claims 1, 11, 19 and 26, and claims 2-3, 12-14, 20-25 and 27-28 depending thereon, are allowable over these references

Therefore, Applicants' respectfully submit that claims 1-28 are allowable and requests that the rejections under 35 USC §103 (a) be withdrawn.

In view of the foregoing amendment and for the reasons set out above, Applicants respectfully submit that the application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are respectfully requested.

Should the Examiner believe that anything further is needed to place the application in condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at the telephone number below.

Respectfully submitted,

  
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